

TESTIMONY OF ERIC J. BROWN
CONNECTICUT BUSINESS & INDUSTRY ASSOCIATION
before the
GOVERNMENT ADMINISTRATION AND ELECTIONS COMMITTEE
March 16, 2015

Good afternoon. My name is Eric Brown and I am an attorney with the Connecticut Business & Industry Association (“CBIA”) and director of its Environmental Policies Council. CBIA’s mission is to work with our members and public officials to make Connecticut a more attractive location for business investment in order to grow jobs and economic opportunity for those who live here. Our members include businesses from across the state of all sizes and from nearly every industry in Connecticut.

CBIA appreciates this opportunity to provide comment recommending changes to section 1(d) of S.B. 7000 An Act Concerning Government Administration.

CBIA greatly appreciates this committee’s effort in section 1(d) of this bill to address a significant need within Connecticut’s regulatory framework. Specifically, the businesses become extremely frustrated when an agency interprets or applies a regulation, either directly or through “guidance” or “policy statements”, in a manner that is inconsistent with the plain language, the intent or the authorizing statute associated with a regulation.

Section 1(d) of this bill seeks to resolve the matter through issuance of opinions by the Attorney General upon the request of a business that has a bone fide dispute with an agency regarding an interpretation or application of its regulations. While on the one hand, it seems logical for the state’s top attorney to issue such an opinion, there is the matter of the attorney general’s responsibility to represent state agencies in matters of civil jurisprudence. Accordingly, the system proposed in this bill as currently written includes an inherent conflict of interest in favor of the state agency.

CBIA suggests that instead of having the attorney general issue the opinion, that this responsibility rests more appropriately with non-partisan legal staff within the legislative branch – from which the underlying authority for all agency regulations emanate. We also believe that the responsibility to “prepare a topical and chronological cross-index of all legal opinions issued” in such matters best rests with the particular agency from which the regulations are promulgated. They could then publish the index on their website for broad public access.

We offer the following suggested language to replace the text of subsection 1(d) beginning on line 54 following the word, “him.”

“The co-chairs of the joint committee having cognizance over matters related to regulation review may receive requests from businesses in the state to arrange for an opinion by the legislative commissioner’s office concerning a bona fide dispute with a state agency concerning the interpretation or application of a regulation of such agency. For purposes of this subsection, “agency” and “regulation” have the same meanings as provided in section 4-166. The co-chairs of said joint committee may, upon receipt of such a request, direct the legislative commissioner’s office to issue such an opinion to them and to the commissioner of the agency which is the subject of the request. Said commissioner shall prepare a topical and chronological cross-index of all such legal opinions issued to their agency and shall maintain such information on the agencies website.”

Thank you again for your attention to this important matter. CBIA stands ready to work with the committee to craft an effective and efficient mechanism to achieve the goals of section 1(d) of this bill.